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SUBJECT: IRAQI NSC DISCUSSES DETAINEES, AIR FORCE CAPACITY,
AND HAJJ ORGANIZATION

Classified By: Deputy Chief of Mission Patricia A. Butenis for reasons
1.4 (b) and (d).

11. (C) Summary: During the April 19 Iraqi National Security Council meeting, the Chief Justice complained that there is inadequate coordination between security agencies and the judiciary, resulting in improper handling of evidence and problems prosecuting prisoners and inappropriately lengthy detentions. Regarding modernization of the Air Force, the Minister of Defense said that his ministry's budget was insufficient to implement planned procurement. The NSC discussed how to improve management of the Hajj, and National Security Advisor Rubaie urged increased action to implement the U.S. - Iraq Security Agreement (SA) and Strategic Framework Agreement (SFA), as well as the need to ensure media coverage of progress on implementing the two agreements. End Summary.

Detainee Issues & Rule of Law

12. (C) Chief Justice Medhat began the meeting with a discussion of detainee issues. He stressed the need for better coordination between the judiciary and security institutions. In particular, he criticized the way security agencies handle evidence. When detainees are arrested, the authorities must present evidence for their detention within 48 hours so that prisoners can be prosecuted. When individuals are arrested by soldiers, said the Chief Justice, the soldiers are not investigating or maintaining evidence in a proper manner. He added that the soldiers are not qualified to investigate, and as a result evidence is lost. This is a particular problem in Mosul, where judges have had no option but to release prisoners based on a lack of evidence.

13. (C) Prime Minister Maliki stressed that authorities need to respect the rule of law. Soldiers, he noted, are not trained investigators so they must turn evidence over to the police. He said that there is good coordination between the army and the judiciary in Basrah. The Minister of Defense vocally intervened in the discussion, arguing that the detainees are "not bank robbers - they are killers." He said that the military is only doing preliminary or "tactical" questioning. The Prime Minister suggested that the Ministry of Defense and Chief Justice form a committee to resolve the issue.

14. (C) The Chief Justice said that detainees are staying imprisoned for weeks without release or a judicial hearing. In such a case, the MOD must present the case to the judiciary or it is unlawful to hold them. He added that there is a need for more trained investigators. The PM said that there is also a need to ensure protection for judges. It is hard, he stressed, for them to sentence people to death or life sentences if they do not feel personally secure.

15. (C) The Chief Justice said there is a problem with detainees who are arrested based on intelligence. In such cases, there needs to be a mechanism to transfer intelligence to evidence. The Minister of State for National Security

added that when detainees are released by coalition forces, sometimes there is very little information on the detainees. As a result, it is difficult to determine whether they can be released. Deputy Prime Minister Essawi underlined that there are also innocent people behind bars and that they must be released if there is no evidence against them. The PM agreed with Essawi on that point.

Air Force Capacity

¶6. (C) Turning to the next agenda item, the Prime Minister raised the issue of modernization of the Air Force. The Minister of Defense complained that he has "no money" for modernization, and that the ministry needs \$7 billion for armaments to prepare for the withdrawal of coalition forces. He said that his ministry had presented this requirement to the Council of Representatives (CoR) Security and Defense committee, but that nothing had happened. The CoR, he complained, had cut so much from the MOD's budget that it will be short 21,000 personnel. DPM Essawi suggested that a committee be formed to address this issue. The Minister of Defense objected vociferously, stressing that this was an internal MOD issue and was not an appropriate subject for an "external committee."

¶7. (C) The PM said that the GOI could not change the decision of the CoR, but that the Ministry should work on its plan and hopefully there will be a better budget next year. He suggested that the Minister of Defense speak to the Minister of Planning.

Ba'ath Party

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¶8. (C) The Prime Minister raised the issue of ex-Ba'ath party members, and how to deal with those returning to Iraq. He noted that this is a rule of law issue and that a number of files had been referred for prosecution. However, he also stressed that it is a humanitarian and security issue and that people need jobs. Perhaps, he offered, the GOI should consider how to compromise and head off a potential problem.

Hajj Pilgrimage Committee

¶9. (C) A representative from the Hajj Committee briefed the meeting on a number of recommendations to improve organization for Iraqi Hajj participants, stressing that the next Hajj needs to be smoother than the last. The Foreign Minister stressed that this is a very sensitive and important issue, and that there have been many complaints. He said that the Pilgrimage Committee did not have sufficient authority, and that problems could be exploited to cause problems with Iran and Saudi Arabia.

¶10. (C) The Committee representative suggested that there be better coordination between the Sunni and Shi'a endowments. The FM said that in the past, Iraqi intelligence had participated in the Hajj but that Iraq no longer does business that way. The GOI needs to be careful so that Saudi Arabia does not view Iraqi pilgrims as spies. DPM Essawi suggested that pilgrims fill out a security form before traveling.

Progress on Implementing Security Agreement and Strategic Framework Agreement

¶11. (C) National Security Advisor Rubaie raised the issue of information flow from the SA and SFA implementation committees, noting that committees are not sending their minutes to the NSC as he believed was required. The Minister of Defense objected, stating that there is not such requirement to forward the notes to the NSC. Instead, he said that the committee he co-chairs sends its minutes to the Prime Minister's Office.

¶12. (C) The Foreign Minister noted that the Diplomatic and Political Committee had not yet met because the new U.S. Ambassador has not yet arrived. Rubaie stressed the importance of media coverage of the implementation progress, but participants complained that the Iraqi satellite channel does not cooperate with the GOI. Rubaie suggested that Sharqiya would likely cooperate.
HILL